

WHEN RECORDED MAIL TO:  
GMAC MORTGAGE CORPORATION  
Home Equity Funding  
4 Walnut Grove Drive  
Horsham, PA 19044-0963  
(888) 511-0292

Account No. 9368705 \*\*\*\*

Branch No.: 138

Loan Product: 80/20 Piggyback FICO 700+

3/14/05 11:30:54  
BK 2,175 PG 773  
DESOTO COUNTY, MS  
W.E. DAVIS, CH CLERK

## DEED OF TRUST AND ASSIGNMENT OF RENTS

**THIS DEED OF TRUST AND ASSIGNMENT OF RENTS**, as amended and extended (this "Deed of Trust") is signed to secure advances under a GMAC Home Equity Line of Credit Agreement, as amended or extended (the "Agreement"); it is dated as of February 24, 2005, and is an agreement among Donald V. Crick whose address is 5559 Fawn Den Cove, Southaven, Mississippi 38672 as the grantor(s); Barbara Zirilli, as the trustee; and GMAC Mortgage Corporation, a Pennsylvania Corporation, 100 Witmer Road, Horsham, PA 19044-0963 (herein "GMAC").

**\*\*and wife, Anita R. Crick**

Throughout this Deed of Trust, "we", "us" and "our" refer to grantor(s). "GMAC" refers to GMAC Mortgage Corporation or its assigns. The "Account" refers to the Home Equity line of credit agreement established by GMAC under the Agreement. "Borrower" refers to each person who signs the Agreement as borrower. The Agreement and this Deed of Trust, taken together, are called the "Credit Documents." "Signer" refers to any person (other than GMAC) who has signed a Credit Document.

### DESCRIPTION OF SECURITY

By signing this Deed of Trust, we irrevocably grant, bargain, sell and convey to Trustee, in trust, with power of sale, (a) the real estate located at 5559 Fawn Den Cove, Southaven, County of Desoto, State of Mississippi 38672, more fully described in Schedule A; (b) all buildings or other structures on the property; (c) all rights we may have in any road, alley, easement or license regarding the property or in any mineral, oil, gas or water which is part of the property; (d) all rents and royalties from the property; (e) all proceeds of any insurance on the property; (f) all proceeds of any taking (or threatened taking) of the property by any governmental authority; and (g) all fixtures on the property at any time (collectively, the "Property").

The Property includes all rights and interests which we now have or which we may acquire in the future. For example, if the security mortgaged under this Deed of Trust is a leasehold estate and we subsequently acquire fee title to the Property, the rights and interests granted to GMAC by this Deed of Trust will include the fee title that we acquire. This Deed of Trust is also a Security Agreement under the Mississippi Uniform Commercial Code and we hereby grant GMAC a security interest in the personal property described in (d) through (g) above. This Deed of Trust also constitutes a financing statement filed as a fixture filing in the official records of the county recorder of the county where the Property is located, with respect to any and all fixtures included within the term "Property" and with respect to any goods or other personal property that may now or hereafter become part of such fixtures.

### SECURED OBLIGATIONS

We have signed this Deed of Trust to secure (a) the payment to GMAC of up to \$43,300.00 (the "Credit Limit"), plus FINANCE CHARGES and any other amounts due GMAC under the Agreement; (b) the performance under the Agreement of each Borrower under the Agreement and our performance of the covenants of this Deed of Trust (collectively, the "Secured Obligations"). None of the initial charges are repayable in the event that the Agreement is prepaid prior to its maturity.

### PRIORITY OF ADVANCES

The lien of this Deed of Trust will attach on the date this Deed of Trust is recorded. The indebtedness evidenced by the Credit Documents is a revolving indebtedness. The Credit Documents provide that amounts may be advanced, repaid and readvanced from time to time in accordance with the terms and provisions of the Agreement. Accordingly, the aggregate advances during the term of the Credit Documents may exceed the Credit Limit. However, the Total Balance Outstanding less FINANCE CHARGES at any time (the "Earning Balance Outstanding") shall never exceed the Credit Limit, except for advances made to protect the lien of this Deed of Trust. We agree that the lien and security title of this Deed of Trust shall not be deemed released or extinguished by operation of law or implied intent of the parties if the Total Balance Outstanding is zero as of the date of this Deed of Trust or is from time to time reduced to zero by payments made to GMAC. Our right to use the Account shall be at an end if the Total Balance Outstanding at any time is zero.

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## REPRESENTATIONS AND DUTIES

We promise that, except for Permitted Liens; (a) we own the Property; (b) we have the right to mortgage the Property to GMAC; and (c) there are no outstanding claims or charges against the Property. The term "Permitted Lien" means (x) any mortgage, deed to secure debt or deed of trust ("security instrument") disclosed to GMAC on Borrower's application for the Account, to the extent that the amount secured by such security instrument does not exceed the amount disclosed on such application; and (y) any liens, claims and restrictions of record that do not individually or collectively have a material adverse impact upon GMAC's security, the value of the Property or the Property's current use.

Each of us gives a general warranty of title of GMAC. This means that each of us will be fully responsible for any losses which GMAC suffers because someone has rights in the Property other than Permitted Liens. We promise that we will defend our ownership of the Property against any claims of such right.

We will neither take nor permit any action to partition, subdivide or change the condition of title to all or any part of the Property. We will not amend any prior mortgage without GMAC's prior written consent.

## CERTAIN PROVISIONS OF THE AGREEMENT

We understand that GMAC may, under certain circumstances set forth in the Agreement, cancel its obligation to make further advances and/or require repayment at once of the Total Balance Outstanding. GMAC may change the terms of the Agreement, including terms relating to FINANCE CHARGES, as provided in the Agreement, without impairing its rights under this Deed of Trust.

Under the Agreement, FINANCE CHARGES may vary and are based on an index and the "prime rate" published in The Wall Street Journal or in certain circumstances the "prime rate" published in The New York Times or a similar index selected by GMAC. The rate of FINANCE CHARGES changes on a daily basis as the index or the amount outstanding under the Agreement increases or decreases. We understand that we will not receive advance notice of such changes.

## PROMISES AND AGREEMENTS

We agree with GMAC as follows:

1. **TIMELY PAYMENT.** Except as limited by paragraph 10 below, we shall pay when due all sums owed GMAC under the Credit Documents.

2. **APPLICATION OF PAYMENTS.** All payments shall be applied by GMAC as set forth in the Agreement.

3. **MORTGAGES AND DEEDS OF TRUST; CHARGES; LIENS.** We shall make payments when due and perform all our obligations under any mortgage, deed of trust or other security agreement on the Property.

We shall pay or cause to be paid when due all loans, taxes, assessments, charges, fines, impositions and rents of any kind relating to the Property ("Assessments"). Receipts evidencing such payments shall be delivered to GMAC upon its request. Except for Permitted Liens, we shall not allow any encumbrance, charge or lien on the Property to become prior to the Deed of Trust.

4. **HAZARD INSURANCE; CONDEMNATION.**

(a) We shall, at our cost, keep all improvements on the Property insured against loss by hazards included in the term "extended coverage" and against loss by any other hazards GMAC may reasonably request to be covered. Hazard insurance shall be in an amount equal to the lesser of (i) the full replacement cost of the building that is part of the Property or (ii) the amount of this mortgage plus the total amount of all Permitted Liens. However, coverage will never be less than the amount necessary to satisfy any coinsurance requirement contained in the insurance policy.

All insurance policies and renewals must be in a form acceptable to GMAC and must include a standard mortgagee clause in favor of GMAC. GMAC shall have the right to hold the policies and renewals, subject to the terms of any Permitted Liens. If we pay the premiums directly, we shall provide GMAC with all renewal notices and, if requested by GMAC, all receipts for premiums. If policies and renewals are held by any other person, we shall supply copies of them to GMAC within ten calendar days after they are issued.

In the event of loss, we shall give prompt notice to the insurance company and GMAC. GMAC may file a proof of loss if we fail to do so promptly.

(b) The proceeds of any taking or threatened taking of the Property by a governmental authority shall be paid to GMAC, subject to any Permitted Liens. We shall give GMAC notice of any such threatened taking and sign all documents required to carry out this paragraph 4. No settlement relating to such a taking or threatened taking may be made without GMAC's prior written approval which shall not be unreasonably withheld.

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(c) Subject to the terms of any Permitted Lien, GMAC may elect that the proceeds of any insurance, taking or threatened taking shall be applied to pay the debts secured by this Deed of Trust, repair or reconstruct the Property, and/or pay for our loss (after payment of all reasonable costs, expenses and attorneys' fees paid or incurred by GMAC and us.). The Credit Limit and Available Credit (as defined in the Agreement) shall be reduced to the extent that such proceeds are not used for repair and reconstruction. The receipt of proceeds shall not cure or waive any default under this Deed of Trust or invalidate any act done pursuant to such notice.

If the Property is abandoned by us, or if we fail to respond to GMAC in writing within 30 calendar days from the date notice of a proposed insurance or condemnation settlement is given to us, GMAC may settle the claim, collect the proceeds and apply them as set forth above.

If the Property is acquired by GMAC, all of our right, title and interest in and to any insurance or condemnation proceeds shall become the property of GMAC to the extent of the sums secured by this Deed of Trust.

**5. MAINTENANCE OF THE PROPERTY; LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** We shall: use, improve and maintain the Property in compliance with law; keep the Property in good repair and pay when due all repair costs; prevent waste; impairment and/or deterioration of the Property; and comply with the provisions of any lease of the Property.

If the Property is a part of a condominium project or a planned unit development, we shall promptly perform all of our obligations under the governing documents of the project of development.

**6. PROTECTION OF GMAC SECURITY.** We shall appear in and defend any action or proceeding which may affect the security of GMAC under this Deed of Trust or result in violation of paragraph 3 above. If such an action is filed, we violate this Deed of Trust or Borrowers violate this Agreement, then GMAC may disburse funds and do whatever it believes necessary to protect the security of this Deed of Trust. In doing so, GMAC shall give us notice but it need not make demand or release us from any obligation.

Any amounts paid by GMAC or Trustee under this paragraph 6 shall be paid by us upon demand, with FINANCE CHARGES at the variable rate in effect under the Agreement. Until paid by us, such amounts are secured by this Deed of Trust. Neither GMAC nor Trustee is required to incur any expense or take any action under this Deed of Trust and no action taken shall release us from any duty.

**7. INSPECTION.** Representatives of GMAC may inspect the Property from time to time. Except in an emergency, GMAC must first give notice specifying reasonable cause for the inspection.

**8. FINANCE CHARGES AFTER END OF ACCOUNT AND/OR JUDGMENT.** We agree that FINANCE CHARGES after the end of the Account and/or after a judgment is entered shall continue to accrue at the rates and in the manner specified in the Agreement.

**9. OUR CONTINUING DUTIES AND GMAC'S RIGHTS; WAIVERS.** No waiver of any GMAC or Trustee right under the Credit Documents shall release or limit our liability, Borrower's liability or that of our successors or Borrower's successors, nor shall any waiver affect the lien or priority of this Deed of Trust. Neither GMAC nor Trustee shall be required to start proceedings against any successor or modify payment terms by reason of any demand made by Borrower, us or any successor.

No GMAC or Trustee act or failure to act shall waive any right under this Deed of Trust. All waivers must be in writing and signed by GMAC; they shall apply only to the extent and with respect to the event specified in the writing. Obtaining insurance, or paying taxes or other claims or charges shall not be a waiver of GMAC's right to demand payment at once of the sums secured by this Deed of Trust in the event of a default under the Credit Documents.

**10. SUCCESSORS AND ASSIGNS; JOINT AND SEVERAL LIABILITY.** This Deed of Trust shall bind us and our respective successors for the benefit of GMAC and its successors and assigns. All agreements made by us or any successor are joint and several and may be enforced against each of us or any successor.

Any Signer who does not execute the Agreement ("Co-Grantor") is not personally liable under the Credit Documents. Rather, each Co-Grantor is co-signing to encumber such Co-Grantor's interest in the Property. Each Co-Grantor agrees that GMAC and any Signer may modify either Credit Document, without notice to or consent from such Co-Grantor and without impairing GMAC's rights under the Credit Documents. Each Co-Grantor also waives (a) any right such Co-Grantor might otherwise have to require GMAC to proceed first against any Borrower or any other person or to pursue any remedy in GMAC's power, (b) any defense or right such Co-Grantor might otherwise have arising out of any release granted any Borrower or any defense that any Borrower may have against liability (other than for full payment), (c) any defense against GMAC arising out of GMAC's exercise of a power of sale upon the Property, even if such sale results in the loss of any rights of subrogation or other right of such Co-Grantor against any Borrower or other person, and (d) the benefit of any statute of limitations affecting the Property.

**11. NOTICES.** All notices shall be in writing. Except where applicable law requires otherwise:

(a) GMAC notices shall be hand delivered or mailed by first class, registered or certified mail to the address of the Property or to such other address specified by the addressee in a written notice given to GMAC.

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(b) Our notices shall be mailed to GMAC by first class, registered or certified mail to the address for such notices specified on our most recent monthly statement under the Agreement or to such other address specified by GMAC in a written notice given to us. Any such notice shall be considered given on the day it is received by GMAC.

12. **GOVERNING LAW.** This Mortgage will be governed by federal and Mississippi law. If any provision is invalid, illegal, or unenforceable, this Deed of Trust shall be interpreted as if such provision has never been included.

13. **COPIES.** We shall receive copies of the Credit Documents and any other documents we sign at the time they are signed or after this Deed of Trust is recorded.

14. **EXERCISING REMEDIES.** GMAC may exercise all of the rights and remedies provided by the Credit Documents or law, and any of these rights and remedies may be exercised individually or together, once or a number of times. The parties to this document are subject to the provision for Arbitration as set forth in the Agreement which is incorporated by reference as if set forth at length herein.

15. **EVENTS OF DEFAULT.**

(a) The events set forth in paragraph 15(b) are Events of Default if and when GMAC gives any Signer notice of default. We agree to notify GMAC promptly upon the happening of any event that would be an Event of Default under either Credit Document upon the giving of notice by GMAC.

(b) After giving notice of default, GMAC may end the Account and/or demand repayment at once of the Total Balance Outstanding in any of the following events:

(i) There has been fraud or material misrepresentation by any Signer in connection with the Account;

(ii) Borrowers fail to meet the repayment terms of the Agreement for any amount outstanding;

(iii) Any action or inaction by any Signer has adversely affected the Property or any right of GMAC in the Property; to the extent permitted by law, this will include, but not be limited to, any Signer (or any legal representative or successor of any Signer) agreeing to sell, transfer or assign or selling, transferring or assigning any interest in the Property, without the prior written consent of GMAC.

(c) Notwithstanding any language in this Deed of Trust to the contrary, GMAC will not take any action in the event of default unless permitted by applicable law and GMAC will give us any grace period, right to cure and/or reinstatement right without the prior written consent of GMAC.

16. **POWER OF SALE AND RELATED MATTERS. IF BORROWERS DO NOT REPAY THE TOTAL BALANCE OUTSTANDING WHEN DUE, GMAC MAY EXERCISE ANY REMEDY AVAILABLE TO IT UNDER APPLICABLE LAW, INCLUDING INVOKING ITS POWER OF SALE OF THE PROPERTY. GMAC SHALL BE ENTITLED TO COLLECT ALL REASONABLE COSTS AND EXPENSES, SUCH AS ATTORNEYS' FEES, INCURRED IN PURSUING THE REMEDIES PROVIDED ABOVE.**

**IF GMAC INVOKES ITS POWER OF SALE UNDER THIS DEED OF TRUST, GMAC SHALL EXECUTE, OR CAUSE TRUSTEE TO EXECUTE, A WRITTEN NOTICE OF THE OCCURRENCE OF AN EVENT OF DEFAULT AND OF GMAC'S ELECTION TO CAUSE THE PROPERTY TO BE SOLD. GMAC SHALL CAUSE SUCH NOTICE TO BE RECORDED IN EACH COUNTY WHERE ANY PART OF THE PROPERTY IS LOCATED. GMAC OR TRUSTEE SHALL MAIL COPIES OF SUCH NOTICE, IN THE MANNER REQUIRED BY APPLICABLE LAW, TO US AND TO ANY OTHER PERSONS WHO ARE ENTITLED TO NOTICE UNDER APPLICABLE LAW. AFTER THE LAPSE OF SUCH TIME AS MAY BE REQUIRED BY APPLICABLE LAW, TRUSTEE SHALL, WITHOUT FURTHER DEMAND ON OR NOTICE TO US, SELL THE PROPERTY AT PUBLIC AUCTION TO THE HIGHEST BIDDER AT THE TIME AND PLACE AND UNDER THE TERMS DESIGNATED IN THE NOTICE OF SALE, IN ONE OR MORE PARCELS AND IN SUCH ORDER AS TRUSTEE MAY DETERMINE. TRUSTEE MAY POSTPONE SALE OF ALL OR ANY PARCEL OF THE PROPERTY BY PUBLIC ANNOUNCEMENT AT THE TIME AND PLACE OF ANY PREVIOUSLY SCHEDULED ANNOUNCEMENT AT THE TIME FIXED BY THE PRECEDING POSTPONEMENT. GMAC OR GMAC'S DESIGNEE MAY PURCHASE THE PROPERTY AT ANY SALE.**

**TRUSTEE SHALL DELIVER TO THE PURCHASER A TRUSTEE'S DEED CONVEYING THE PROPERTY SOLD WITHOUT ANY COVENANT OR WARRANTY, EXPRESS OR IMPLIED. THE RECITALS IN THE TRUSTEE'S DEED SHALL BE PRIMA FACIE EVIDENCE OF THE TRUTH OF THE STATEMENTS MADE THEREIN. TRUSTEE SHALL APPLY THE PROCEEDS OF THE SALE (A) FIRST TO ALL REASONABLE COSTS AND EXPENSES OF THE SALE, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' AND TRUSTEE'S FEES AND COSTS OF TITLE EVIDENCE, (B) THEN AS SET FORTH IN THE AGREEMENT; AND (C) FINALLY TO ANY PERSONS LEGALLY ENTITLED TO THE REMAINDER.**

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17. **ASSIGNMENT OF RENTS; RECEIVERS; GMAC POSSESSION OF THE PROPERTY.** As additional security, we hereby assign to GMAC any rents due on the Property after an Event of Default or abandonment of the Property. In any action to invoke the power of sale under this Deed of Trust, GMAC shall be entitled to the appointment of a receiver.

If an Event of Default occurs or we abandon the Property, GMAC, without notice, may enter upon, take possession of, and manage the Property. GMAC may then collect or sue in its own name for any rents due on the Property. All rents so collected shall be applied first to payment of the reasonable costs of operation and management of the Property (such as collection costs, receiver's fees, bond premiums and attorneys' fees) and then to the Total Balance Outstanding. GMAC and the receiver must account only for rents actually received.

Acts taken by GMAC under this paragraph 17 shall not cure or waive any Event of Default or invalidate any act done pursuant to notice of default.

We will not, without the written consent of GMAC, receive or collect rent from any tenant on the Property more than one month in advance. Upon an Event of Default, we will pay monthly in advance to GMAC or any receiver the fair and reasonable rental value of the Property or that part of the Property in our possession. If we fail to pay such rent, we will vacate and surrender the Property to GMAC or to such receiver. We may be evicted by summary proceedings.

18. **RECONVEYANCE.** Upon payment of all sums secured by this Deed of Trust, termination of the Account, delivery to GMAC of all checks providing access to the Account and the passage of at least 14 days after satisfaction of the first three conditions, GMAC shall surrender the Credit Documents to the Trustee and request Trustee to reconvey the Property. Trustee shall reconvey the Property without warranty to those of us legally entitled thereto.

19. **REQUEST FOR NOTICES.** GMAC requests that copies of notice of default and sale from the holder of any lien which has priority over this Deed of Trust be sent to GMAC Mortgage Corporation at 100 Witmer Road, Horsham, PA 19044-0963.

20. **EXHIBITS, SCHEDULES AND RIDERS, ETC.** The terms of any Exhibit, Schedule or Rider attached to this Deed of Trust or executed and recorded with this Deed of Trust shall be treated as if fully set forth in this Deed of Trust. All of the Terms of the Agreement are made part of this Deed of Trust.

21. **TIME OF ESSENCE.** Time is of the essence in this Deed of Trust.

22. **ACTUAL KNOWLEDGE.** For purposes of the Credit Documents, GMAC shall not be deemed to have actual knowledge of any fact until it actually receives notice as set forth in paragraph 11 or until it receives written notice thereof from a source GMAC reasonably believes to be reliable. The date of receipt shall be determined by reference to the "Received" date stamped on such written notice by GMAC or its agent.

23. **TAXES.** If taxes on deeds of trust or the debts they secure increase in any way after the date of this Deed of Trust, we shall pay the full amount of any such increase.

24. **WAIVER OF STATUTORY RIGHTS.** To the extent permitted by law, for ourselves and our successors and assigns, we hereby waive the benefit of all homestead, dower, curtesy, appraisement, valuation, redemption, reinstatement, stay, extension, exemption and moratorium laws now existing or hereafter enacted and any right to have the Property marshalled upon any invocation of the power of sale. We further agree that any court having jurisdiction may order the Property sold as an entirety.

25. **EXPENSES OF LITIGATION.** In any proceeding to enforce any remedy of GMAC under the Credit Documents there shall be allowed and included, to the extent permitted by law, as additional indebtedness in the judgment or decree, any court costs and reasonable collection expenses which may be paid or incurred by GMAC for attorneys; paralegal; legal assistants; appraisers; documentary and expert evidence; stenographers; publication; surveys; abstracts of title; title searches; title insurance policies; and similar items which GMAC reasonably considers necessary in such proceeding or to evidence to bidders at any sale the true condition of the title to or value of the Property. Such expenses may be estimated to the extent they will be incurred after entry of the decree. All such expenses, and those that may be incurred to protect and maintain the Property or the lien of this Deed of Trust, shall be payable upon demand.

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**REQUEST FOR FULL RECONVEYANCE****TO TRUSTEE:**

The undersigned is the holder of the Agreement secured by this Deed of Trust. The amounts owed under said Agreement, together with all other indebtedness secured by this Deed of Trust have been paid in full. The undersigned hereby directs you to cancel said Agreement and this Deed of Trust and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

Dated:

**DEED OF TRUST**

Title No.

**THIS INSTRUMENT PREPARED BY:**

Carolyn Russell  
GMAC Mortgage Corporation  
4 Walnut Grove Drive  
Horsham, PA 19044-0963

**RECORDING REQUESTED BY:**  
GMAC MORTGAGE CORPORATION

TO

**WHEN RECORDED MAIL TO:**  
GMAC Mortgage Corporation  
Home Equity Funding  
4 Walnut Grove Drive  
Horsham, PA 19044-0963

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

By signing this Deed of Trust, we agree to all of the above.

Donald V. Crick  
Donald V. Crick  
GRANTOR

Anita R. Crick  
Anita R. Crick  
GRANTOR

GRANTOR

GRANTOR

STATE OF MISSISSIPPI  
COUNTY OF DeSoto SS:

Personally appeared before me, the undersigned authority in and for said county and state, on the 24th day of February, 2005 within my jurisdiction, the within named Donald V. Crick and Anita R. Crick who acknowledged that (he)(she)(they) executed the above and foregoing instrument.

My commission expires:  
07-15-08

Adrienne Ray  
Notary Public Adrienne Ray



STATE OF MISSISSIPPI  
COUNTY OF \_\_\_\_\_ SS:

Personally appeared before me, the undersigned authority in and for said county and state, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ within my jurisdiction, the within named Donald V. Crick who acknowledged that (he)(she)(they) executed the above and foregoing instrument.

My commission expires:

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Affix Seal)

Lot 218, Section E, Deerchase Subdivision, in Section 4, Township 2 South, Range 7 West, DeSoto County, Mississippi, as per Plat thereof recorded in Plat Book 84, Page 10, in the Office of the Chancery Clerk of DeSoto County, Mississippi.